

1984 WL 249952 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 2, 1984

\*1 The Honorable John A. Martin  
Member  
South Carolina Senate  
Box 298  
Winnsboro, South Carolina 29180

Dear Senator Martin:

In a letter to this Office you requested an opinion concerning this State's 'blue laws' and their effect on the State Fair operating on Sunday. Specifically you questioned whether certain items could be sold at the Fair on Sundays.

[Section 53-1-30, Code of Laws of South Carolina](#), 1976, provides that:

'(a)ll amusement parks and recognized State and county fairs may operate on Sundays after 1:00 p.m.'

Such statute was enacted in 1974 and was obviously a means to remove any doubts as to the legality of events, such as the State Fair, operating on Sunday. Without such express authorization it could reasonably have been argued that in light of the prohibitions of this State's 'blue laws', as set forth in [Sections 53-1-40 et seq., Code of Laws of South Carolina](#), 1976, as amended, events such as the State Fair could not operate on Sundays.

[Section 53-1-40, supra](#), sets forth three categories of prohibited acts on Sundays:

- 1) engaging in worldly work, labor, or business of one's ordinary calling;
- 2) selling or offering to sell, publicly or privately or by telephone, at retail or wholesale, goods or merchandise;
- 3) employing others to engage in work, labor, business or selling or offering to sell goods or merchandise.

Generally, only those activities enumerated in [Section 53-1-50, Code of Laws of South Carolina](#), 1976, as amended, are specifically exempted from the general prohibition of Sunday work. In addition, the selling or offering to sell of certain items is expressly prohibited by [Section 53-1-60, Code of Laws of South Carolina](#), 1976, as amended. Such section, however, is not all-inclusive inasmuch as it is specifically stated that '(n)o inference shall arise from the foregoing enumeration that either the sale or the offering for sale on Sunday of items or articles not mentioned is permitted.' Generally, the sale of an item is prohibited as a violation of this State's 'blue laws' unless the sale of such item is specifically permitted by [Section 53-1-50](#).

It is clear that pursuant to [Section 53-1-30, supra](#), the State Fair may open on Sundays after 1:00 p.m. However, the question remains as to what type activities may be conducted during its period of operation. 'Operate' has been defined as:

'... to effect, to produce, to accomplish, to set or keep in operation or activity, to superintend, to put in action, to cause to function, to supervise the working of, to run, to act or work continuously.' 29A Words and Phrases, 'Operate,' p. 392.

Referencing such definition, while there is statutory authorization for the State Fair to open and operate on Sundays after 1:00 p.m., it is clear that [Sections 53-1-30, 53-1-40, 53-1-50, and 53-1-60, supra](#), must be considered to be in pari materia and therefore must be construed together to render both operative and to be explanatory of each other. [Fishburne v. Fishburne](#), 171

S.C. 408, 172 S.E. 426 (1934). Logically, if the General Assembly had intended the State Fair to be absolutely exempt from this State's 'blue laws', such would have been stated. [Section 53-1-30](#), supra, while authorizing the State Fair to operate on Sundays, does not authorize the Fair to avoid other laws. This State's 'blue laws' establish a comprehensive scheme regulating Sunday sales and, therefore, [Section 53-1-30](#), supra, must necessarily be read in association with other 'blue law' provisions.

\*2 In [State v. Karmil Merchandising Corporation](#), 158 Me. 450, 186 A.2d 352 (1962), the Supreme Court of Maine held that where a statute excepts the sale of specified items from the general prohibition against selling on Sunday, a department store may open on Sunday such departments or sections where the exempted items are located and sell those items but not open other departments and sell items prohibited from sale on Sunday. See also: [Fichtenberg v. City of Atlanta](#), 126 Ga. 62, 54 S.E. 933 (1906). Similarly, this Office has indicated in prior opinion that while the 'blue laws' permit an automobile parts store to sell and install automotive repair parts or accessories for immediate use in emergency situations, the general sale of automotive parts on Sunday is prohibited. See: Ops. Atty. Gen. dated April 10, 1979; July 15, 1980; September 26, 1983. Therefore, while certain businesses or enterprises may 'operate' on Sundays, it remains clear that the unlimited operation of such are not permitted by the 'blue laws'.

Inasmuch as the selling or offering to sell of items or the employing of others to sell is prohibited by [Section 53-1-40](#), supra, and pursuant to [Section 53-1-60](#), supra, the sale of certain items on Sunday is prohibited, the sale of certain items at the State Fair is also prohibited unless specifically permitted by [Section 53-1-50](#), supra. This conclusion must be reached even though the State Fair itself may 'operate' on Sundays.

I am enclosing with the copy of this opinion which I am forwarding to Mr. Abernathy copies of [Sections 53-1-50](#) and [53-1-60](#), supra. If after reviewing such statutes there are any further questions relating to the sale of items at the State Fair, I would be glad to discuss such with Mr. Abernathy. Please do not hesitate to contact me if this Office can be of further assistance.

Sincerely

Charles H. Richardson  
Assistant Attorney General

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